

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-7405

TIMOTHY R. MUELLER,

Plaintiff - Appellant,

v.

JOHN M. JABE, Deputy Director of Operations,

Defendant - Appellee.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. Jackson L. Kiser, Senior
District Judge. (7:10-cv-00239-jlk-mfu)

Submitted: December 16, 2010

Decided: December 29, 2010

Before GREGORY, DUNCAN, and DAVIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Timothy R. Mueller, Appellant Pro Se. John Michael Parsons,
Assistant Attorney General, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Timothy R. Mueller seeks to appeal the district court's order denying his motions to appoint counsel, for class certification, and to amend his complaint. No final judgment has been entered in the underlying case, which remains pending in the district court.

This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2006), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2006); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545-46 (1949). To the extent that Mueller seeks to appeal the district court's denial of his motions for appointment of counsel and to amend his complaint, we lack jurisdiction over the appeal in the absence of a final judgment. Further, although an interlocutory appeal of the denial of a motion for class certification may proceed with leave of this court, Fed. R. Civ. P. 23(f); see Fed. R. App. P. 5, Mueller has not properly petitioned this court for such leave.

Accordingly, we dismiss the appeal for lack of jurisdiction. We deny Mueller's motion to this court for appointment of counsel. We dispense with oral argument because the facts and legal contentions are adequately presented in the

materials before the court and argument would not aid the decisional process.

DISMISSED